

1 GOVERNMENT OF THE DISTRICT OF COLUMBIA
2 ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
3 ALCOHOLIC BEVERAGE CONTROL BOARD

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6	IN THE MATTER OF:	:
7	Mimosa, Inc.,	:
8	t/a Mimosa Restaurant	: Show Cause
9	1915 18th Street, NW	: Hearing (Status)
10	License #ABRA-96758	:
11	Retailer Class CR	:
12	ANC-2B Case #15-CMP-00759 and :	
13	15-CMP-00349	:
14	No ABC Manager on Duty	:
15	(Two Counts)	:

16 - - - - - X

17 Wednesday, March 23, 2016

18

19 Whereupon, the above-referenced matter
20 came on for hearing at the Alcoholic Beverage
21 Control Board, Reeves Center, 2000 14th Street,
22 N.W., Suite 400S, Washington, D.C. 20009.

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2 CHAIRPERSON:

3 DONOVAN ANDERSON, Presiding

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5 BOARD MEMBERS:

6 RUTHANNE MILLER

7 NICK ALBERTI

8 MICHAEL SILVERSTEIN

9 JAMES SHORT

10

11 ALSO PRESENT:

12

13 FERNANDO RIVERA,

14 On behalf of the District of Columbia

15 SOPHIE LIU,

16 On behalf of Mimosa Restaurant

17 VIVIAN NGUYEN,

18 On behalf of Mimosa Restaurant

19 MARTHA JENKINS, ESQ.

20 On behalf of ABRA

21 DANETTE WALKER,

22 On behalf of ABRA

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2 APRIL RANDALL,

3 On behalf of ABRA

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P R O C E E D I N G S

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CHAIRMAN DONOVAN ANDERSON: Are the parties here for, um, Mimosa Restaurant?

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MR. FERNANDO RIVERO: Yes.

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CHAIRMAN DONOVAN ANDERSON: All right. Then I would like to call Case #15-CMP-00759 and 15-CMP-00349, Mimosa Restaurant, License #96758. Will the parties please appear and -- approach, and there's a sign-in sheet on the table. Please sign your name, and also please identify yourself for the record, please.

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MR. FERNANDO RIVERO: Good morning, Board Members, Fernando Rivero for the District of Columbia.

17

(Off-mic speaking)

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MR. FERNANDO RIVERO: There's an interpreter present today.

20

21

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CHAIRMAN DONOVAN ANDERSON: Oh, okay. I wasn't aware of that. All right. Um, what -- can you -- who's the interpreter?

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1 MS. SOPHIE LIU: Sophie Liu --

2 CHAIRMAN DONOVAN ANDERSON: Can you --

3 MS. SOPHIE LIU: -- L-i-u.

4 CHAIRMAN DONOVAN ANDERSON: Can you --
5 can you please stand, please? Okay. And what
6 language? What language?

7 MS. SOPHIE LIU: Vietnamese.

8 CHAIRMAN DONOVAN ANDERSON: Vietnamese?
9 Can you raise your right hand, please? Can you --
10 do you swear or assert -- do you swear or affirm
11 that you will faithfully interpret, um, this
12 proceeding from English into Vietnamese and then
13 from Vietnamese into English, to the best of your
14 abilities?

15 MS. SOPHIE LIU: I do.

16 CHAIRMAN DONOVAN ANDERSON: All right.
17 Thank you. You can have a seat. Then, um, I would
18 like the licensee to identify herself, please.

19 (Foreign language spoken)

20 MS. VIVIAN NGUYEN: This is, uh -- Good
21 morning. My name Vivian Nguyen.

22 CHAIRMAN DONOVAN ANDERSON: Okay. Good

1 morning. All right. Are there -- is -- are -- are
2 there any preliminary matters?

3 MR. FERNANDO RIVERO: Yes. The parties
4 have an offer in compromise to present at this
5 time. And I believe the document has been
6 provided to the Board so that the Board can
7 follow along.

8 (Off-mic speaking)

9 CHAIRMAN DONOVAN ANDERSON: Yeah. Yes,
10 yes, yes. Hold on one second. I was told that --
11 I haven't seen it. That's one of the reasons I
12 was --

13 MR. FERNANDO RIVERO: Fine.

14 CHAIRMAN DONOVAN ANDERSON: So rather
15 than me taking extensive notes -- Go ahead, Mr.
16 Fernandez.

17 MR. FERNANDO RIVERO: Okay. Um --

18 (Off-mic speaking)

19 CHAIRMAN DONOVAN ANDERSON: Go ahead,
20 sir.

21 MR. FERNANDO RIVERO: One moment. I
22 understand there might be a -- a need to pick up

1 a copy. Uh --

2 CHAIRMAN DONOVAN ANDERSON: No, I -- I --
3 I have what I need. So go ahead.

4 MR. FERNANDO RIVERO: You have -- Okay.

5 CHAIRMAN DONOVAN ANDERSON: Yes.

6 MR. FERNANDO RIVERO: Great. So as a bit
7 of background, uh, before the Board there are two
8 cases. The office has -- our office has received
9 a third, but there are other cases in the
10 pipeline that have not been sent to our office.
11 This offer in compromise is intended to get rid
12 of every single case concerning this licensee.
13 The reason being is, the licensee is actually not
14 in possession of alcoholic beverages, not selling
15 them, and is prepared to surrender the license
16 for safekeeping.

17 (Off-mic speaking)

18 (Foreign language spoken)

19 MR. FERNANDO RIVERO: So I will go over
20 the fine and how it is distributed, and I will
21 include in the record the ABRA case number that
22 corresponds to that case, whether it is before

1 the Board, at my office, or still in enforcement
2 division.

3 The first term of the offer is that the
4 licensee will pay a total fine of \$1,500. That
5 fine is distributed as follows: \$250 for Case 15-
6 CMP-00349, \$500 for Case 15-CMP-00759, \$250 for
7 Case 15-CMP-00678, \$250 for Case 15-CC-00123, and
8 \$250 for Case 15-CMP-00653. Additionally,
9 Citation #3906, which corresponds to Case #16-
10 CMP-00171, will be dismissed.

11 The licensee will place the license in
12 safekeeping no later than March 25, 2016. If the
13 license is not placed in safekeeping or
14 surrendered by that date, the license will be
15 immediately suspended. However, the licensee has
16 the license in her possession today to surrender.
17 The licensee will pay the renewal fee for the
18 license no later than March 31, 2016. That's the
19 deadline for the renewal fee.

20 On the next page of the written offer:
21 The licensee will pay this fine of \$1,500 no
22 later than 120 days from March 23, 2016. The

1 license will not be removed from safekeeping --
2 in other words, the licensee cannot get her
3 license back -- if the fines are unpaid, still,
4 by the 120-day period, and she will only be able
5 to get the license back once those -- that fine
6 is paid. This is the functional equivalent of
7 having a license suspended when a fine is not
8 paid. Since we are in the safekeeping context,
9 most of the time that condition applies to
10 licensees who are operating. So this is the
11 equivalent of that.

12 CHAIRMAN DONOVAN ANDERSON: All right.

13 MR. FERNANDO RIVERO: The -- the fines,
14 excuse me, um, for cases that are currently
15 before the Board would normally due and payable.
16 Uh, one benefit of this particular offer in
17 compromise is that the citations are due and
18 payable today. Otherwise, in the normal course of
19 business, if the Government had some of these
20 fines, and the licensee was not operating in
21 license in safekeeping, those fines would be
22 normally dismissed. So she has agreed to pay

1 those fines as part of this arrangement. That's
2 the offer in compromise.

3 CHAIRMAN DONOVAN ANDERSON: Thank you.
4 Good morning, Ms. Nguyen.

5 (Foreign language spoken)

6 CHAIRMAN DONOVAN ANDERSON: It's my
7 understanding that the Government has, um --
8 there's an offer in compromise that the
9 Government just listed. I will go through them,
10 and, uh, once you hear them, I want you to agree
11 that this is what you agreed to. Okay?

12 (Foreign language spoken)

13 CHAIRMAN DONOVAN ANDERSON: All right.
14 All right. The first -- the overall is that
15 there's a fine of \$1,500. Is that -- is that what
16 you agreed to, to pay a fine of \$1,500?

17 (Foreign language spoken)

18 MS. VIVIAN NGUYEN: Yes.

19 CHAIRMAN DONOVAN ANDERSON: And that the
20 cases that the fine, um -- the cases consist of
21 Case #15-CMP-00349. The first one is for \$250.
22 The second case is Case #15-CMP-00759. That fine

1 is for \$500. The third case is Case #15-CMP-00678
2 for -- for \$250. The other case is for Case #15-
3 CC-00123, another \$250 fine. And the -- the --
4 um, the last case is Case #15-CMP-00653, for
5 \$250, and that Case #16-CMP-00171, that this case
6 will be dismissed.

7 (Foreign language spoken)

8 CHAIRMAN DONOVAN ANDERSON: Is that
9 correct?

10 MS. VIVIAN NGUYEN: Yes.

11 CHAIRMAN DONOVAN ANDERSON: And so -- and
12 so basically, the fines total \$1,500. Correct?
13 It's also my understanding, as presented by the
14 Government, that you have agreed to place your
15 license in safekeeping no later than March 25,
16 2016. Is this correct?

17 (Foreign language spoken)

18 MS. VIVIAN NGUYEN: Yes.

19 CHAIRMAN DONOVAN ANDERSON: And if that -
20 - the -- if you do not place your license in
21 safekeeping by that date, your license will be
22 suspended. Are you in agreement with that?

1 (Foreign language spoken)

2 MS. VIVIAN NGUYEN: Yes, I agree.

3 CHAIRMAN DONOVAN ANDERSON: And the --
4 the next portion is that the -- that you will pay
5 the renewal fee of the license no later than
6 March 31, 2016. Is this correct?

7 (Foreign language spoken)

8 MS. VIVIAN NGUYEN: Yes.

9 CHAIRMAN DONOVAN ANDERSON: And that --
10 it is correct that you will pay the \$1,500 within
11 120 days. Is that correct?

12 MS. VIVIAN NGUYEN: Yes, correct.

13 CHAIRMAN DONOVAN ANDERSON: And that you
14 also agree that the license will not be removed
15 from safekeeping until the \$1,500 is paid -- is
16 that correct?

17 (Foreign language spoken)

18 MS. VIVIAN NGUYEN: Yes.

19 CHAIRMAN DONOVAN ANDERSON: Okay. Fine.
20 Are you aware that by accepting an offer in
21 compromise from the Government, you are giving up
22 your right to have a hearing?

1 (Foreign language spoken)

2 CHAIRMAN DONOVAN ANDERSON: And also your
3 -- are you also aware that you are also giving up
4 your right to appeal this matter?

5 MS. VIVIAN NGUYEN: Yes.

6 CHAIRMAN DONOVAN ANDERSON: Okay. Fine.
7 All right. Thank you. I, then, make a motion that
8 this offer in compromise that was just repeated -
9 - I don't want to repeat it again, but -- that
10 this offer in compromise of a \$1,500 fine,
11 payable within, um, 120 days, that if -- that the
12 license will be placed in safekeeping no -- no
13 later than March 25, that the licensee will pay
14 the renewal fee, um, no later than March 31, and
15 that, um, the license will remain in safekeeping
16 until the fine is paid. I make a motion that this
17 be accepted. Is there a second?

18 MR. NICK ALBERTI: Second.

19 CHAIRMAN DONOVAN ANDERSON: Mr. Alberti
20 has seconded the motion. Are there any
21 discussions?

22 MS. RUTHANNE MILLER: I just have a

1 couple of questions.

2 CHAIRMAN DONOVAN ANDERSON: Yes, Ms.
3 Miller.

4 MS. RUTHANNE MILLER: Um, I mean, it
5 looks okay --

6 CHAIRMAN DONOVAN ANDERSON: Remember to
7 speak slowly since she's translating this.

8 MS. RUTHANNE MILLER: Oh. Okay. I just
9 wanted to ask a couple of clarifying questions.
10 Um, I'm -- I'm not clear what, um, uh, Case #CMP-
11 00678 -- what the violation is for that one.

12 MR. FERNANDO RIVERO: Six seven eight?

13 MS. RUTHANNE MILLER: Mm-hmm.

14 MR. FERNANDO RIVERO: No ABC manager on
15 duty.

16 MS. RUTHANNE MILLER: Okay. And then,
17 also, the one that's being dismissed, uh, 00171.

18 MR. FERNANDO RIVERO: It's the same
19 violation.

20 MS. RUTHANNE MILLER: Same violation?
21 Okay. And then my last question is, um, what's
22 the consequence if the licensee, uh, fails to pay

1 the renewal fee by March 31?

2 MR. FERNANDO RIVERO: Uh, whatever the
3 regulatory consequence would be under the Board's
4 current laws and regulations for any licensee
5 that has a license in safekeeping and has failed
6 to renew the license as the law requires.

7 MS. RUTHANNE MILLER: Okay. Thank you.
8 That's it.

9 MR. FERNANDO RIVERO: I default to the --
10 the law on that consequence.

11 MS. RUTHANNE MILLER: Okay. Thank you.

12 CHAIRMAN DONOVAN ANDERSON: Those in
13 favor say aye.

14 (Chorus of ayes)

15 CHAIRMAN DONOVAN ANDERSON: Those
16 opposed?

17 (No audible response)

18 CHAIRMAN DONOVAN ANDERSON: The matter
19 passed, 5-0-0. Thank you very much. Ms. Randall
20 will provide -- We'll -- we'll issue a -- a Board
21 order -- We'll issue a Board order in this
22 matter. All right. Thank you very much.

1 MR. FERNANDO RIVERO: Thank you.

2 FEMALE SPEAKER: Thank you.

3 CHAIRMAN DONOVAN ANDERSON: All right.

4 (Whereupon, the above-entitled matter was
5 concluded.)